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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/126,884	07/31/1998	MICHAEL C. BERTRAM	533/133	9408

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MOSER, PATTERSON & SHERIDAN L.L.P.  
595 SHREWSBURY AVE  
FIRST FLOOR  
SHREWSBURY, NJ 07702

EXAMINER

NGUYEN, BRIAN D

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 03/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/126,884

Applicant(s)

BERTRAM ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on the amendment filed 2/5/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16 & 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "said at least one encoded program stream" in line 5. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Slattery (6,246,701).

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Regarding claim 1, Slattery discloses a method for forming a transport stream having a bit rate  $BR$  and  $N$  slots, each of the  $N$  slots being associated with a respective plurality of non-contiguous transport packets and being separated by  $N-1$  transport packets. The stream includes one or more programs where each program has a bit rate of  $BR/N$ . In case of less than  $N$  programs being included within the transport stream, NULL packets forming NULL programs are included (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50 & 62-65; col. 6, lines 11-16; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30).

Regarding claims 2-6, Slattery further discloses examining and replacing NULL packets/programs with replacement packets/programs by inserting the replacement packets/programs into an output transport stream (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30).

Regarding claims 7-11, Slattery discloses an apparatus for generating  $N$  programs to produce a slotted transport stream having  $N$  slots comprising a transport clock source,  $N$  transport encoders, a multiplexer for sequentially multiplexing one transport packet from each respective transport encoded program streams to form the slotted transport stream, wherein each transport packet from a single stream is separated by  $N-1$  transport packets,  $N$  buffer memories, a switch coupled to the  $N$  buffer memories for selectively coupling to an output to produce the slotted transport stream, and a file server coupled between the multiplexer and the  $N$  transport encoders (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; col. 29, line 41-col. 30, line 7; and col. 40, lines 28-30). Slattery implicitly

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discloses a frequency divider to divide a timing signal CLK from the transport clock source into N timing signals so as the bit rate of the slotted transport stream will be equal to the sum of the bit rates of the N slots.

Regarding claim 12, Slattery discloses an apparatus for generating a transport stream comprising a plurality of programs, each of the programs having associated with it a respective time slot comprising a plurality of encoder for encoding program streams, wherein each of the encoded program streams being coupled to a switch (30) via a respective buffer memory, the switch selectively coupling program stream transport packets from the buffer memories to produce a slotted transport stream, wherein each transport packet of each program stream is separated by a transport packet from at least one other program stream (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; col. 29, line 41-col. 30, line 7; and col. 40, lines 28-30). Slattery implicitly discloses a frequency divider to divide a timing signal CLK from the transport clock source into N timing signals so as the bit rate of the slotted transport stream will be equal to the sum of the bit rates of the N slots.

Regarding claims 13, 16-17, and 21-22, Slattery further discloses a file server (40) for storing encoded program streams and selectively providing at least one encoded program stream to the switch (see Figure 1).

Regarding claims 14-15, 18-20, and 23-25, Slattery further discloses NULL transport packets, adding and deleting NULL transport packets and program packets (see elements 50 & 60 of Figure 1; col. 4, lines 62-67; col. 5, lines 48-50; and col. 10, lines 32-40).

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***Response to Arguments***

5. Applicant's arguments filed 2/5/02 have been fully considered but they are not persuasive.

Applicant argued that the pending claims are not taught or suggested, either alone or in combination, by the cited references. This argument is not persuasive because Slattery either explicitly or inherently discloses all the claimed subject matter including inserting NULL transport packet into transport stream and replacing the program packet.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reach on Monday-Thursday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms, can be reach on (703) 305-4703. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377

**Any response to this action should be mailed to:**

Commissioner of Patens and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for formal communications intended for entry)

**Or:**

(703) 872-9314 (for informal or draft communications, please label

"PROPOSED" or DRAFT")

Hand-delivered response should be brought to Crystal Park II, 2021 Crystal Drive,  
Arlington VA., Sixth Floor (Receptionist).

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Feb. 27, 2002

*BN*

Brian Nguyen

*DNT*

DANG TON  
PRIMARY EXAMINER